

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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**DATE:** February 27, 2003

**TO:** Orange County Zoning Administrator

**FROM:** Planning and Development Services Department/Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA02-0127 for a Variance

**PROPOSAL:** Request for approval of a variance to reduce the minimum rear setback to facilitate the construction of a single-story room addition. The variance requested reduces the required 25 foot setback, to 18 feet. The subject site is located in the general east Orange/north Tustin unincorporated area.

**LOCATION:** 13101 Bow Place, within the Third Supervisorial District

**APPLICANT:** Eric and Pat Bangs

**STAFF** J. Alfred Swanek, Project Manager

**CONTACT:** Phone: (714) 796-0140 or (714) 834-2626 FAX: (714) 834-4772

**SYNOPSIS:** The Current Planning Services Division recommends Zoning Administrator consideration of Variance Application No. PA02-0127, with potential findings and conditions referenced herein.

**BACKGROUND:**

The subject site was originally developed in 1961. It is presently a 2,317 square foot, single family home with a detached garage, on an 11,800 square foot lot. The home presently complies with all development standards of the applicable 100-E4 Small Estates zoning district.

**SURROUNDING LAND USE:**

Direction	Land Use Designation	Existing Land Use
Project Site	100-E4 "Small Estates"	Single family dwelling
North	100-E4 "Small Estates"	Single family dwelling
South	100-E4 "Small Estates"	Single family dwelling
East	100-E4 "Small Estates"	Single family dwelling
West	100-E4 "Small Estates"	Single family dwelling

**REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A notice of hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at 300 N. Flower, at the site, and as required by established public hearing posting procedures. In addition, a copy of the planning application and a copy of the proposed site plan were distributed for review and comment to the Foothill Community Association (which did not respond) and to the North Tustin Advisory Committee (NTAC). According to the January 15, 2003 Minutes of NTAC, 30 neighbors, including those adjacent to the property, signed off on the proposed plans, and NTAC recommended approval after brief discussion (see Exhibit 2).

**CEQA COMPLIANCE:**

Pursuant to the California Environmental Quality Act (CEQA), the proposed project is Categorically Exempt from its requirements (Class 5, minor alterations in land use such as setback variance).

**DISCUSSION/ANALYSIS:**

The homeowners are seeking approval of a variance to facilitate the construction of a 281 square foot room addition for a family room along the south and west sides of their house, replacing and extending beyond a current patio cover at the rear of the home. The proposed addition will be partially located in the required rear yard setback of 25 feet. The applicant proposes reducing this rear setback to 18 feet. The resulting encroachment (7 feet) requires approval of a variance. Assuming approval of the variance request, the enlarged single family residence and detached garage would cover approximately 27% of the lot. The E4 District allows Building Site (lot) Coverage to a maximum of 35%.

Staff has been unable to locate similar variances for rear yard setbacks on level, rectangular, mid-block lots in the E4 District. The applicants cite a rear yard variance granted within the North Tustin Specific Plan area at 14221 Cameron, under PA01-0056. Staff does not find the comparison absolutely compelling. In that instance: the lot was a shallow building site as defined by the Zoning Code; the property was already non-conforming at the time the variance was applied for; and the rear yard variance was granted against the side yard of a lot well over 1 acre, where the house was located in the very center of the lot. In this case, the fully conforming home is on a standard lot in the middle of a tract, and backs up against the rears of other homes in the tract.

Granting this variance would to some extent set a precedent for all other property owners similarly situated, offering one basis for reducing the standard rear yard to less than 25'. The Zoning Administrator will be provided color aerial photographs of the two situations. To support the applicant's position, the entire staff report, findings and conditions of approval enacted under PA01-0056 are attached for the Zoning Administrator's consideration.

The applicants also make reference to their attempt to add to their 1-story home without encouraging a conversion of the immediate area to a 2-story neighborhood. There may be some validity in this argument. As a general rule, homes built in the 1950s and 60s were not constructed to readily now add a partial second floor under current Building Code standards. Often, owners forced by setback requirements into a "second-story solution" find that demolition of the existing home is required. Due to the associated

costs, this then necessitates attempts to maximize the use of the very valuable lot. Two (or even three) story homes covering as much of the lot as possible then result, beginning to change the character of the overall neighborhood.

Staff is in support of maintaining the general character of this neighborhood as single-level dwellings. Thus, the existing swimming pool in the rear yard limits the applicant's ability to achieve the desired room addition within the existing setback limitations. Further, the floor plan of the existing home largely limits the practical design possibilities of proposed additions to those that would intrude on rear yard setbacks. This proposed addition does meet the side yard setback requirement, and would not be visible from any public street. It should also be noted that the applicant appears to have gained support from all immediately affected neighbors/property owners, as well as having obtained approval from the designated citizens' review body (NTAC).

A broader solution than a case-by-case variance might be considered in the future to address situations such as this one. In the Rossmoor-Los Alamitos area, the County in 1985 rezoned to: reduce the overall maximum height limit for homes from 35' to 28' (eliminating the possibility of full three-story homes); while allowing one-story house elements (with up to 17' high gables) to be placed as close as 15' to the rear property line. This neighborhood does not in any way appear to have suffered in terms of property values because of these overall zoning regulation changes. Something similar to this could conceivably be accomplished through a County-initiated Zoning Code Amendment applying to the R1 and E4 Districts in particular.

#### **RECOMMENDED ACTION:**

Due to possible implications of action on this variance request, Current Planning Services Division staff recommends Zoning Administrator discretion along the following lines:

- a. Receive staff report and public testimony as appropriate;
- b. Approve Planning Application PA02-0127 for a rear setback variance, subject to findings and conditions of approval attached hereto; and
- c. Consider recommending to the Planning Commission that they examine the question of whether the Zoning Code potentially needs to be amended to allow one-story structures of a specified maximum height to be located closer to the rear property line than a full-height two (or three) story structure would be allowed.

Respectfully submitted,

Chad G. Brown, Chief  
CPSD/Site Planning Section

**EXHIBITS:**

1. Applicant's Letter of Explanation
2. NTAC minutes
3. Project Plans (Site Plan, Floor Plan and Elevation)
4. Color Photographs (Zoning Administrator's copy only)

**ATTACHMENTS:**

Staff Report, Findings and Conditions of Approval for PA01-0056

Potential Findings and Conditions of Approval for PA02-0127

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.